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101ST CONGRESS
2d Session

SENATE

REPORT
101-261

TONGASS TIMBER REFORM ACT

MARCH 30 (legislative day, JANUARY 23), 1990.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 987]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 987) to amend the Alaska National Interest Lands Conservation Act, to designate certain lands in the Tongass National Forest as wilderness, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the Act, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND DEFINITION.

(a) SHORT TITLE.—This Act may be cited as the "Tongass Timber Reform Act".

TITLE I—FOREST MANAGEMENT PROVISIONS

SEC. 101. TO REQUIRE ANNUAL APPROPRIATIONS FOR TIMBER MANAGEMENT ON THE TONGASS NATIONAL FOREST.

The Alaska National Interest Lands Conservation Act (Public Law 96-487, hereinafter referred to as "ANILCA") is hereby amended by deleting section 705(a) (16 U.S.C. 539d (a)) in its entirety and inserting in lieu thereof the following:

"SEC. 705. (a) Subject to appropriations, other applicable law, and the requirements of the National Forest Management Act of 1976 (Public Law 94-588), except as provided in subsection (d) of this section, the Secretary shall seek to provide a supply of timber from the Tongass National Forest which (1) meets the annual market demand for timber from such forest and (2) meets the market demand from such forest for each planning cycle.".

39-010

S313-10

SEC. 102. INDENTIFICATION OF LANDS UNSUITABLE FOR TIMBER PRODUCTION.

ANILCA is further amended by deleting section 705(d) (16 U.S.C. 539d(d)) in its entirety and inserting in lieu thereof:

"(d) All provisions of section 6(k) of the National Forest Management Act of 1976 (16 U.S.C. 1604(k)) shall apply to the Tongass National Forest except that the Secretary need not consider economic factors in the identification of lands not suited for timber production.".

SEC. 103. FISHERIES PROTECTION.

Section 705 (16 U.S.C. 539d) of ANILCA is amended by adding at the end thereof the following new subsection:

"(e) In order to assure protection of riparian habitat, the Secretary shall maintain a buffer zone of no less than 100 feet in width on each side of all Class I streams in the Tongass National Forest, and on the last 300 feet before the confluence with Class I streams of those Class II streams which flow directly into a Class I stream, within which commercial timber harvesting shall be prohibited, except where independent national forest timber sales have already been sold prior to March 1, 1990, or where volume has been released prior to March 1, 1990, to either the Alaska Pulp Corporation or the Ketchikan Pulp Company pursuant to the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 respectively. If such an independent timber sale or released volume is within the buffer zone, the Secretary shall make every effort to relocate such independent sale or released volume to an area outside of the buffer zone. The Secretary shall use best management practices, as defined in the Region 10 Soil and Water Conservation Handbook (FSH 2509.22), January 1990, to assure the protection of riparian habitat on streams or portions of streams not protected by such buffer zones. For the purposes of this subsection, the terms 'Class I streams' and 'Class II streams' mean the same as they do in the Region 10 Aquatic Habitat Management Handbook, (FSH 2609.24), June 1986.".

SEC. 104. FUTURE REPORTS ON THE TONGASS NATIONAL FOREST.

Section 706 (a) of ANILCA (16 U.S.C. 539e(a)) is amended by striking the second sentence.

SEC. 105. SMALL BUSINESS SET-ASIDE PROGRAMS.

(a) Section 14(i)(1) of the National Forest Management Act of 1976 (16 U.S.C. 472a(i)(1)), is amended by striking the following: "road: *Provided,* That the provisions of this subsection shall not apply to sales of timber on National Forest System lands in the State of Alaska." and inserting in lieu thereof "road.".

(b) Section 705 (16 U.S.C. 539d) of ANILCA is amended by adding at the end thereof the following new subsection:

"(f) Subject to appropriations, the provisions of this Act and other applicable law (including but not limited to the requirements of the National Forest Management Act of 1976 (Public Law 94-588)) and in order to assure the continuation of the Small Business Administration timber sale program, the Secretary shall seek to provide a supply of timber from the Tongass National Forest which meets the demand of those purchasers qualifying as 'small business concerns' under the Small Business Act as amended (15 U.S.C. 631 et seq.). ".

TITLE II—TONGASS NATIONAL FOREST LANDS PROTECTION

Title V of ANILCA is amended by adding at the end thereof the following new section:

"SEC. 508. LUD II MANAGEMENT AREAS.

"The following lands are hereby allocated to Land Use Designation II ('LUD II') as described in the Tongass National Forest Land Management Plan, completed March, 1979, and amended Winter 1985-1986, and shall be managed by the Secretary of Agriculture in perpetuity in accordance with such designation:

"(1) YAKUTAT FORELANDS.—Certain lands which comprise approximately 139,144 acres, as generally depicted on a map entitled 'Yakutat Forelands LUD II Management Area—Proposed' and dated May, 1989.

"(2) BERNERS BAY.—Certain lands which comprise approximately 46,000 acres, as generally depicted on a map entitled 'Berners Bay LUD II Management Area—Proposed' and dated May, 1989.

"(3) CHUCK RIVER.—Certain lands which comprise approximately 72,503 acres, as generally depicted on a map entitled 'Chuck River LUD II Management Area—Proposed' and dated May, 1989.

"(4) GOOSE FLATS.—Certain lands which comprise approximately 23,798 acres, as generally depicted on a map entitled 'Goose Flats LUD II Management Area—Proposed' and dated May, 1989.

"(5) KADASHAN.—Certain lands which comprise approximately 33,641 acres, as generally depicted on a map entitled 'Kadashan LUD II Management Area—Proposed' and dated May, 1989.

"(6) KARTA.—Certain lands which comprise approximately 38,046 acres, as generally depicted on a map entitled 'Karta LUD II Management Area—Proposed' and dated May, 1989.

"(7) LISIANSKI RIVER/UPPER HOONAH SOUND.—Certain lands which comprise approximately 135,426 acres as generally depicted on a map entitled 'Lisianski River/Upper Hoonah Sound LUD II Management Area—Proposed' and dated May, 1989.

"(8) MT. CALDER/MT. HOLBROOK.—Certain lands which comprise approximately 56,540 acres as generally depicted on a map entitled 'Mt. Calder/Mt. Holbrook LUD II Management Area—Proposed' and dated May, 1989.

"(9) NUTKWA.—Certain lands which comprise approximately 28,118 acres as generally depicted on a map entitled 'Nutkwa LUD II Management Area—Proposed' and dated May, 1989.

"(10) OUTSIDE ISLANDS.—Certain lands which comprise approximately 75,017 acres as generally depicted on a map entitled 'Outside Islands LUD II Management Area—Proposed' and dated May, 1989.

"(11) TRAP BAY.—Certain lands which comprise approximately 6,646 acres as generally depicted on a map entitled 'Trap Bay LUD II Management Area—Proposed' and dated May, 1989.

"(12) YOUNG LAKE.—Certain lands which comprise approximately 18,173 acres as generally depicted on a map entitled 'Young Lake LUD II Management Area—Proposed' and dated May, 1989.".

TITLE III—MODIFICATION OF LONG-TERM TIMBER SALE CONTRACTS IN SOUTHEAST ALASKA

SEC. 301. CONTRACT MODIFICATIONS.

(a) DEFINITIONS.—As used in this section, the term "Secretary" means the Secretary of Agriculture. The term "TLMP" means the Tongass National Forest Land Management Plan, completed March, 1979, and amended Winter 1985–1986. The term "contracts" means the long-term timber sale contracts numbered 12–11–010–1545 and A10fs–1042 between the United States and the Alaska Pulp Corporation, and between the United States and the Ketchikan Pulp Company, respectively.

(b) FINDING.—The Congress hereby finds and declares that it is in the national interest to modify the contracts in order to assure that valuable public resources in the Tongass National Forest are protected and wisely managed. Modification of the long-term timber sale contracts will enhance the balanced use of resources on the forest and promote fair competition within the southeast Alaska timber industry.

(c) UNILATERAL CHANGES.—The contracts are hereby modified to:

(1) assure that all timber sale planning and environmental assessment procedures regarding the contracts are consistent with procedures for independent national forest timber sales, pursuant to the National Forest Management Act of 1976 (Public Law 94–588), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws;

(2) eliminate the practice of harvesting a disproportionate amount of old-growth timber by limiting the volume scheduled for harvest over the rotation in volume classes 6 and 7, as defined in TLMP and supporting documents, so that the proportion of volume scheduled in these classes within a contiguous management area does not exceed the proportion of volume currently represented by these classes within the management area;

(3) assure that all timber offered under the contracts shall be substantially harvested within three years or the Secretary shall withhold further offerings, unless harvesting has been delayed by third-party litigation;

(4) assure that the Secretary determines the location and size of sale units and the timing of timber harvests;

(5) allow rejection of timber offered under the contracts. Upon rejection of any timber offered, the Secretary may re-offer such timber to any qualified bidder under independent national forest timber sales. If the rejected timber is subsequently sold within 12 months and harvested within the independent contract period, that amount of timber shall be subtracted from the volume remaining under the appropriate contract;

(6) assure that utility logs offered under the contracts shall be counted against contract volume requirements;

(7) assure that purchaser road credits are provided under the contracts in a manner consistent with independent national forest timber sale procedures; and

(8) assure that timber offered under the contracts shall be priced according to independent national forest timber sale procedures with stumpage rates and profitability criteria consistent with those of independent purchasers in competitive sales.

(d) CERTIFICATION TO CONGRESS.—Notwithstanding any other provision of law, the Secretary is directed to make the necessary revisions to the text of the contracts to reflect the modifications to such contracts made by subsection (c) of this section. The Secretary shall promptly, and in no event later than ninety days after the date of enactment of this Act, transmit the text of the modified contracts to the Congress together with his certification that these revisions are in compliance with the modifications made by subsection (c). Until such time as the Secretary transmits the text of the modified contracts to the Congress, but no later than ninety days after the date of enactment of this Act, the Secretary is authorized to conduct timber sale operations on the Tongass National Forest in accordance with the provisions of the contracts as they existed on the day before the date of enactment of this Act. At such time as the Secretary transmits the modified contracts to Congress, or ninety days after the date of enactment of this Act, whichever is sooner, the Secretary shall conduct timber sale operations on the Tongass National Forest only in accordance with the provisions of the modified contracts.

(e) The Secretary shall take such other actions in management of the Tongass National Forest as may be necessary to meet the provisions of subsection (c).

(f) GAO AUDIT.—The Comptroller General of the United States shall, on a continuing basis, audit the actions taken by the Secretary to revise the text of the contracts pursuant to the modifications made pursuant to subsection (c). Within thirty days after the Secretary's transmittal of the contracts and certification to Congress, and in no event later than one hundred and twenty days after the date of enactment of this Act, the Comptroller General shall submit a report to Congress describing the revisions made by the Secretary to the contracts and stating whether, in the opinion of the Comptroller General, the revised contracts are in compliance with the requirements of this section.

TITLE IV—HAIDA LAND EXCHANGE ACT AMENDMENT

The Haida Land Exchange Act of 1986 (Public Law 99–664) is hereby amendced by adding the following new section at the end thereof:

"SEC. 12. SULZER PORTAGE LANDS SELECTION.

"(a) WITHDRAWAL.—The following lands are withdrawn, subject to valid existing rights, from all forms of appropriation under the public lands laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act (Public Law 85–508) as amended:

"Copper River Meridian

"Section:	
	Township 76S, Range 85E
16	S½S½, NW¼SW¼
17	W½, SE¼, S½NE¼
18	All, Fractional
19	N½NE¼, SE¼NE¼, NE¼NW¼
20	N½, N½SE¼, SE¼SE¼
21	All
22	S½, S½N½, Fractional
23	S½, Fractional
24	S½, Fractional
25	All, excluding islets
26	N½, N½SE¼, Fractional
27	E½, E½W½, NW¼NW¼, SW¼SW¼
28	NE¼NE¼, SE¼SE¼
31	SW¼, W½SE¼
	Township 76S, Range 86E
30	SW¼, including all fractional lands on west shore of Big Creek Bay.
	Township 76S, Range 86E

"Copper River Meridian—Continued

31	E½W½, SW¼SE¼, NW¼SE¼.
	Township 77S, Range 86E
2	N½, SE¼, N½SW¼.

"(B) SELECTION.—(1) For a period of one year after the date of enactment of this section, Haida Corporation shall be entitled to select lands from among those lands withdrawn pursuant to subsection (a). Haida Corporation shall notify the Secretary of the Interior which lands so withdrawn Haida Corporation wishes to select and shall designate which Haida Exchange Lands and/or outstanding selection rights under section 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1615) Haida Corporation intends to exchange or relinquish in return for its selections hereunder.

"(2) The exchange of lands selected by Haida Corporation pursuant to this subsection for Haida Exchange Lands or selection rights under section 16 of the Alaska Native Claims Settlement Act shall be on an acre-for-acre basis. The conveyance of lands to Haida Corporation and Sealaska pursuant to this subsection shall be deemed a conveyance of lands pursuant to the Alaska Native Claims Settlement Act.

"(3) After their selection, the surface estate in lands selected by Haida Corporation pursuant to this subsection shall be conveyed to Haida Corporation and the subsurface estate in such lands shall be conveyed to Sealaska Corporation in partial fulfillment of such corporations' entitlement under the Alaska Native Claims Settlement Act and pursuant to the provisions of that Act, provided that the United States shall reserve an easement 100 feet in total width for the use of the State of Alaska for a transportation corridor on the Sulzer Portage trail between Cholmondley Sound and Hetta Inlet, provided however, that timber occurring within the easement boundaries shall remain the property of Haida Corporation.

"(c) DURATION.—The withdrawal made pursuant to subsection (a) shall terminate 90 days after the United States has conveyed the surface and subsurface estates of all lands selected by Haida Corporation pursuant to subsection (b) to Haida Corporation and Sealaska Corporation respectively, or one year after the date of enactment of this section, whichever is later.".

PURPOSE OF THE MEASURE

The purposes of H.R. 987, as ordered reported, are (1) to repeal the $40 million direct appropriation for the Tongass National Forest; (2) to repeal the 4.5 billion board feet mandated harvest level for the forest and replace it with direction to the Secretary of Agriculture to seek to meet market demand for timber; (3) to establish 100-feet buffer zones on either side of certain streams in the forest, within which commercial timber harvesting will be prohibited; (4) to designate 12 management areas comprising approximately 673,000 acres, which will be managed in conformity with the LUD II designation in the Tongass Land Management Plan; (5) to modify the two long-term contracts on the Tongass National Forest to be more consistent with independent short-term sales; and (6) to accelerate the date at which the Haida Corporation may select lands in the Sulzer Portage area of the Tongass National Forest.

BACKGROUND AND NEED

The Tongass National Forest was first established in Southeast Alaska in 1907. A year later, the Tongass and the Alexander Archipelago Forest Reserve where consolidated into a single forest by presidential proclamation, giving it the distinction of the Nation's largest national forest, a distinction it maintains today.

Through much of the forest's history, the Forest Service, often with the assistance of Congress, has encouraged the development of

a timber industry in Southeast Alaska as an inducement for employment and population growth. In the 1920's, the Forest Service worked with the Alaska Territorial Government to establish a timber industry in hopes of stabilizing the "boom or bust" Alaska economy. However, an obstacle to harvesting national forest timber arose in the form of Native claims to lands in the Tongass. Consequently, in 1947, Congress passed the Tongass Timber Act, which provided a temporary mechanism for dealing with Native land claims while allowing the Forest Service to continue to sell timber.

In the early 1950's, as long-term timber sales were being phased out in the lower 48 States, the Forest Service sought to establish four long-term timber sales in Southeast Alaska, each requiring the construction of a pulp mill. Ultimately, three contracts were signed, two of which are still in effect today. Fifty-year contracts were signed in 1951 with Ketchikan Pulp Company, (now owned by Louisiana Pacific) for 8.25 billion board feet of timber, and in 1956 with Alaska Lumber and Pulp Company (now the Japanese owned Alaska Pulp Corporation) for 4.975 billion board feet of timber. Pulp mills were subsequently built by these two companies in Ketchikan and Sitka respectively. The Ketchikan Pulp Company contract will expire in 2004 and the Alaska Pulp Corporation contract will terminate in 2011.

LONG-TERM CONTRACTS

Approximately two-thirds of the annual allowable sale quantity on the Tongass is dedicated to meeting the requirements of the 50-year contracts. The remainder of the volume is offered through auction in contracts which are usually 3 years in length.

The long-term contracts vary significantly from the short-term, independent contracts used by other companies in Southeast Alaska and on all other national forests. Aside from the obvious difference in the length of time and amount of volume under obligation, many procedural differences exist as well. Specifically, the long-term contracts differ from independent sales in the manner in which price is determined and costs are applied, the flexibility afforded the long-term contract holders in the selection of timber sold and harvested, and the size and location of the sales.

On September 11, 1990, the Forest Service and Alaska Pulp Corporation announced mutually negotiated changes to that company's 50-year timber sale contract for Tongass timber. However, that revised contract has not yet been implemented since it is currently under appeal by the Southeast Alaska Conservation Council primarily for lack of NEPA compliance. While the Forest Service maintains that the new contract reconciles many of the differences between short-term and long-term sales, critics contend that the new contract fails to sufficiently address these differences.

As of March 1, 1990, approximately 29 billion board feet remain committed to the Ketchikan Pulp contract and 2.6 billion board feet to the Alaska Pulp Corporation contract. Critics of the long-term contracts contend that the Forest Service cannot achieve its multiple-use mandate on the Tongass while under obligation to timber companies for billions of board feet of timber.

NATIONAL FOREST MANAGEMENT ACT

In 1976, Congress passed the National Forest Management Act (NFMA) as an amendment to the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA). NFMA directs the Forest Service to prepare a comprehensive plan for each national forest. It requires that the plans consider the economic and environmental aspects of resources management and provide that plant and animal diversity should be maintained. It also requires that timber will only be harvested from National Forest System lands where soil, watershed, and other values will not be irreversibly damaged; that lands can be restocked; streams, waterways and fish habitat will be protected; and clearcutting will be used only when it is the optimum silvicultural method.

Section 15(b) of NFMA specifically requires the Forest Service "in developing 5-year operating plans under the provisions of existing 50-year timber sales contracts in Alaska, to revise such contracts to make them consistent with the guidelines and standards provided for in NFMA, and to reflect such revisions in the contract price of timber." While the Forest Service maintains that they have brought the contracts under compliance with NFMA, critics argue that the Forest Service has failed to make the changes required by section 15(b) of NFMA.

In 1979, the Forest Service released the Tongass Land Management Plan (TLMP), the first comprehensive plan adopted pursuant to NFMA. TLMP maintained that the Tongass could sustain a harvest level of 450 million board feet annually, while still meeting the environmental and economic considerations mandated by NFMA. The Forest Service is currently revising TLMP as required by NFMA and anticipates that a craft plan will be released in June, 1990.

Approximately 8.7 million acres of the 16.7 million-acre Tongass is forested land. 5.4 million acres are in designated wilderness areas. The current version of TLMP dedicates an additional 2.7 million acres to management regimes which preclude timber harvesting. Approximately 7 million acres of the Tongass are dedicated to a management regime which allows timber harvesting. These management regimes are currently being reevaluated during the revision of TLMP.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT (ANILCA)

After lengthy and complex negotiations, the Alaska National Interest Lands Conservation Act (ANILCA) passed the Congress and became law in 1980. Among other conservation system unit designations, ANILCA set aside approximately 56 million acres of wilderness in Alaska, 5.4 million of which is in the Tongass National Forest.

During the consideration of ANILCA, a compromise was worked out in an attempt to deal with the concerns of some that such a large wilderness designation on the Tongass would have a significant negative impact on the local economy of the region. This compromise in ANILCA:

> Authorized a permanent appropriation of "at least $40,000,000 annually or as much as the Secretary of the Agri-

culture finds is necessary" to maintain the timber supply on the Tongass. This fund (known as the Tongass Timber Supply Fund) is in addition to any general appropriation the forest may receive for timber and non-timber related programs;

Directed that a timber supply of 4.5 billion board feet per decade be maintained on the Tongass; and

Exempted the Tongass from section 6(k) of NFMA which requires the Forest Service to classify lands unsuitable for timber production and prohibits harvesting in these areas until the lands are reevaluated in the next planning cycle.

The 4.5 billion board feet harvest level per decade was derived from the 450 million board feet annual harvest level called for in TLMP. The $40 million direct appropriation came from Forest Service analysis which showed that at least $35 million (in 1979 dollars) was necessary to retain the 450 million board feet harvest level, and the number was subsequently increased to account for inflation. In computing the $35 million figure, the Forest Service added its $23.5 million timber management budget to an additional $11.7 million the Agency felt was necessary to incease yields, particularly on marginal lands. The exemption from section 6(k) of NFMA was included to allow the Forest Service to harvest marginal lands to make up for more commercially viable timber which was set aside in wilderness.

ENVIRONMENTAL CONCERNS

The provisions of ANILCA relating to timber harvesting on the Tongass have come under a great deal of criticism for a variety of reasons. Critics content that those provisions, combined with the obligations of the long-term contracts, have resulted in a Forest Service bias toward timber harvesting on the Tongass, at the expense of other values. Over the years, the Forest Service has been severely criticized for its lack of sensitivity to various environmental concerns on the forest.

The Tongass boasts a wide variety of wildlife species, including black bears, deer, moose, wolves, seals, sealions, ravens, bald eagles and a relatively large and thriving population of brown (also called grizzly) bears. Some of these species rely on high-volume old growth stands to provide appropriate cover and browse. Concerns have been raised that the Forest Service is harvesting the old growth timber on the Forest at a rate which will reduce the populations of the wildlife that depend on it. The Alaska Department of Fish and Game has predicted a significant decline in the deer population as second growth stands replace old growth. Some fisheries biologists and commerical fishermen are equally as concerned about the effects of logging on fisheries.

In the summer of 1989, fishermen and Alaska Natives filed suit against the Forest Service. Among other issues, the plaintiffs claimed that the salmon habitat and subsistence resources on Prince of Wales Island would be irreparably injured if Ketchikan Pulp Company were allowed to continue harvesting along riparian areas. On September 29, the Federal district court in Alaska issued a temporary restraining order which prohibits logging and road building within 100 feet of all "Class I" and those "Class II"

streams which are tributaries of "Class I" streams. Class I streams are those with anadromous or high value resident sport fish habitat, and Class II streams are those with resident fish populations and generally steep gradient. A preliminary injunction was granted on March 1, 1990. The judge's Memorandum of Decision in this case found that the plaintiffs were likely to succeed on the merits of their NEPA claims with respect to the Forest Service's decision regarding buffer zones, and left the subsistence issue for determination later in the proceedings. The preliminary injunction will remain in place until such time as the merits of the case are presented and disposed of.

ECONOMICS

Currently about 60 percent of the timber from the Tongass is pulp to be used for producing products such as rayon and cellophane. The remainder of the timber is manufactured into lumber at Southeast Alaska sawmills. Virtually all of the saw and pulp products are exported. Federal regulations require timber cut from Federal land in Alaska to be processed before being exported.

In addition to the two long-term contract holders, approximately 20 other firms hold contracts with the Forest Service to harvest timber on the Tongass. These independent contractors purchase about one-third of all Tongass timber sales. The other major competitors in the Southeast Alaska timber market are the Alaska Native corporations. Because the native corporations are harvesting timber from their own lands, they can export round logs directly without having to process them. The native timber harvest in Southeast Alaska has increased steadily in recent years from 145 million board feet in 1980 to over 400 million board feet in 1988. As native corporations deplete timber supplies off their own lands, they are expected to be increasingly active in bidding on timber sales off Federal lands in the Tongass in the near future.

From 1980 through 1986, depressed markets and increasing competition from native corporations caused Forest Service sales to decline dramatically. While the Forest Service offered an average of 450 million board feet of sawtimber to meet its requirements under ANILCA, the agency was only able to sell about 53% of this volume. However, stronger markets have prevailed since 1986 and improving markets have resulted in sales of approximately MMBF (sawtimber) in 1989.

The laws that prescribe the management of the national forests give clear direction that the various uses and resources of the national forests should be carefully balanced. However, over the years, actions by the Forest Service, and by Congress, have given the timber resource on the Tongass prominence over other resources.

Consequently, the Committee has adopted an amendment in the nature of a substitute to H.R. 987, which seeks to improve management of the Tongass by balancing the commodity and noncommodity resources of the forest in a manner which will not harm nor destabilize the local economy.

Legislative History

Two measures relating to Tongass National Forest reform have been introduced in the Senate this Congress. On February 2, 1989, Senator Wirth introduced S. 346. Senator Murkowski introduced a very different reform bill, S. 237, on January 25, 1989. The Subcommittee on Public Lands, National Parks and Forests held hearings on these measures in Washington and Alaska in the spring of 1989.

In July 17, 1989, the House of Representatives passed H.R. 987, another Tongass reform bill, by a vote of 356 to 60. The Subcommittee held hearings on certain provisions of this bill on February 26, 1990.

At the the business meeting on March 7, 1990, the Senate Committee on Energy and Natural Resources adopted an amendment in the nature of a substitute to H.R. 987 and ordered it favorably reported.

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on March 7, 1990, by a unanimous vote of a quorum present, recommends that the Senate pass H.R. 987 if amended, as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum*	
Mr. Bradley	
Mr. Bingaman*	
Mr. Wirth	
Mr. Conrad	
Mr. Heflin	
Mr. Rockefeller	
Mr. McClure	
Mr. Hatfield*	
Mr. Domenici*	
Mr. Wallop*	
Mr. Murkowski	
Mr. Nickles*	
Mr. Burns*	
Mr. Garn*	
Mr. McConnell*	

*Indicates voted by proxy.

Committee Amendment

Prior to the Committee's consideration of the Tongass legislation, Senator Johnston circulated a substitute text for H.R. 987 which served as the mark-up vehicle for the Committee's deliberations. During the consideration of this measure, the Committee adopted this substitute after agreeing to several amendments thereto. The

Committee substitute makes several substantive changes to the text of H.R. 987. For a more detailed description of these changes, please refer to the "Section-by-Section Analysis" portion of this report. A brief summary of the major provisions of the amendment substitute follows:

MANDATED HARVEST LEVEL

The Committee substitute deletes the language within section 705(a) of ANILCA which mandates that the Forest Service make available to the dependent industry 4.5 billion board feet of timber per decade on the Tongass National Forest. However, the Committee substitute replaces this mandated timber supply level with direction to the Secretary to seek to meet the market demand for timber on the Tongass National Forest.

SUITABILITY ANALYSIS

The Committee substitute modifies section 705(d) of ANILCA by directing the Secretary to apply all the provisions of section 6(k) of NFMA to the Tongass except that he need not consider economic factors in offering timber for sale. The exemption from consideration of economic factors in the suitability analysis is designed to give the Forest Service some flexibility in harvesting marginal timber stands.

FISHERIES PROTECTION

The Committee amendment requires that a 100-foot buffer zone be maintained on all Class I streams. The Committee reported bill also includes buffer zone protection for Class II streams only to the first 300 feet from the confluence with a Class I stream. A recent Forest Service study has shown that most of the harmful sedimentation introduced into a stream occurs within the first 300 feet of the introduction point.

Class I streams are those streams with anadromous or high value resident sport fish habitat, and Class II streams are those streams with resident fish populations and generally steep gradient, consistent with the Region 10 Aquatic Habitat Management Handbook, (FSH 2609.24), June 1986. Best management practices will be used on those streams and portions of streams not protected by the buffer zones.

SMALL BUSINESS AMENDMENTS

The Committee substitute also addresses two aspects of the small business sale program on the Tongass. The Committee reported bill amends section 14(i) of NFMA to delete the provision in existing law which prohibits small business timber purchasers in Alaska from electing to have the Forest Service construct the necessary logging roads on awarded timber sales. The Committee amendment also directs the Secretary to seek to meet the demand of small business timber sale purchases on the Tongass in order to affirm that the Small Business Set Aside Timber Sale Program is a permanent and important component of the Tongass National Forest Timber Sale Program.

LANDS PROTECTION

The Committee substitute establishes 12 management areas, consisting of approximately 673,000 acres, which will be managed in perpetuity in accordance with Land Use Designation II, ("LUD II") as defined in TLMP. This lands protection provision is consistent with the original recommendations put forth in March, 1989, by the Southeast Conference, a non-profit corporation comprised of local elected officials, business leaders and community members representing Southeast Alaska. The Governor of Alaska has maintained his support for the original Southeast Conference proposal. The Southeast Conference made changes in its original lands proposal in February of this year. Among other things, the Conference recommended that the "LUD II" designation be replaced by a "no harvest zone". As with the original recommendation of the Southeast Conference, these changes were subject to criticisim from those who disagreed with them.

The Committee determined that the LUD II designation sufficiently protects key sensitive areas while allowing the Secretary discretion in management of these areas to provide for authorized activities such as mining, power and water development, and aquaculture developments.

MODIFICATION OF LONG-TERM TIMBER SALE CONTRACTS

The Committee substitute legislatively modifies the two long-term contracts with respect to eight key provisions. Those provisions are discussed in detail in the "Section-by-Section Analysis" portion of this report. This approach ensures that the United States will continue to meet its legal obligations to the two long-term contract holders, while resolving the concerns which have risen over the contracts.

HAIDA LANDS SELECTION

Title IV of the Committee reported bill amends the Haida Land Exchange Act of 1986 by adding a new section which provides for the withdrawal of approximately 5,800 acres of land in the Sulzer Portage area of the Tongass National Forest.

In 1986, the Haida Land Exchange Act of 1986 was enacted in part to provide Haida Corporation with choices regarding future land selections. Section 10 of that Act entitles Haida Corporation to select about 7,900 acres of Federal lands in Alaska which meet specified criteria. That selection is to be made in 1995 to allow the State of Alaska to complete its selections.

Haida Corporation believes that only three areas remain in the Tongass which meet the specific criteria for lands selection in the Haida Land Exchange Act—Sulzer Portage, Nutkwa, and Karta. Since this Act, (the Tongass Timber Reform Act) protects Nutkwa and Karta as LUD II management areas, the Committee adopted an amendment to encourage Haida Corporation to make its selection in the only remaining area—Sulzer Portage. While nothing in this Act would preclude Haida from selecting lands in the Nutkwa and Karta areas, the Committee felt that the valuable fisheries and wildlife habitat within Nutkwa and Karta might be compromised by commodity uses on private land.

The amendment gives an incentive to Haida to make its selection in the Sulzer Portage area by allowing it to make the selection as of the date of enactment of this Act. If this amendment were not adopted, Haida would not be able to make its land selection until 1995.

SECTION-BY-SECTION ANALYSIS

Section 1 sets forth the name of the Act.

TITLE I—FOREST MANAGEMENT PROVISIONS

Section 101 deletes section 705(a) of the Alaska National Interest Lands Conservation Act (ANILCA) which directs the Secretary of the Treasury to make available at least $40,000,000 annually to support a timber supply from the Tongass National Forest at a rate of four billion five hundred million board feet per decade. The Committee reported bill replaces the deleted section with a new section 705(a) which directs the Secretary of Agriculture to seek to provide a supply of timber from the Tongass National Forest which meets the market demand for timber from the Tongass. This direction to the Secretary is subject to the appropriations process, the requirements of NFMA, and other applicable law.

Section 102 amends section 705(d) of ANILCA which had provided the Tongass National Forest an exemption from the provisions of section 6(k) of NFMA. Section 6(k) requires the Secretary to identify lands not suitable for timber production for each national forest considering physical, economic, and other pertinent factors, and to prohibit timber harvesting on such lands for the duration of the planning period. The amended section 705(a) directs that all provisions of section 6(k) of NFMA shall apply to the Tongass except that economic factors need not be considered in the suitability analysis.

NFMA regulations require the Forest Service to follow a specific three-step process in identifying lands not suitable for timber production. Within those steps, the Forest Service identifies land not suitable for timber production on the basis of a variety of criteria, including physical, economic and legal factors. Specific factors to be considered in the determination of whether the land is suitability for timber production include the status of the land (e.g. wilderness, primitive recreation, etc.), the type of land (e.g. forested versus unforested), the ability of the land to be adequately restocked, the impacts of harvesting on other resources, the consideration of multiple-use objectives, and the costs and relative benefits of harvesting.

Section 102 exempts the Forest Service only from considering those factors within section 6(k) of NFMA related specifically to economics. The Committee notes that NFMA and its implementing regulations contain other requirements regarding the consideration of economic factors in the preparation of its land management plans. The Committee intends for this exemption to apply only to section 6(k) and fully expects that the Forest Service will meet all other requirements of NFMA and other applicable law relating to the consideration of economic factors in land management planning on the Tongass.

Section 103 adds a new subsection 705(e) to ANILCA which addresses the protection of riparian habitat. The Committee substitute directs the Secretary to maintain a buffer zone of a minimum of 100 feet in width on each side of all Class I streams and on certain portions of Class II streams, within which commercial timber harvesting shall be prohibited. Buffer zones of a minimum of 100 feet will also be required on those Class II streams which flow into Class I streams on the last 300 feet before the confluence with Class I streams. The Secretary is directed to use best management practices on those streams or portions of streams where 100 foot minimum buffer zones are not statutorily prescribed.

Those independent sales which were sold prior to March 1, 1990 and that volume released to the long-term contract holders prior to March 1, 1990 may be harvested within the zone. However, the Secretary is directed to make every effort in accordance with applicable law, to offer the owners of such sales or in the case of released volume, the long-term contract holders, comparable volume outside of the buffer zones in order to minimize harvesting within the buffer zones.

The Committee substitute uses the definitions of Class I and Class II streams found in the Region 10 Aquatic Habitat Management Handbook, (FSH 2609.24), June 1986. In that handbook Class I streams are defined as those with anadromous or resident sport fish habitat, and Class II streams are defined as those with resident fish populations and generally steep gradient.

The Committee's intent in establishing a buffer zone is to protect riparian habitat. The Committee modified the original proposal which would have prohibited "logging" to specify that only "commercial timber harvesting" would be prohibited. The intent of the change was to clarify that, consistent with the goal of protecting riparian habitat, the Secretary could take such measures, including salvage sale of timber, within the buffer zone as may be necessary in the control of fire, insects and diseases, and blow down. The language does not prohibit yarding corridors or other logging systems which are approved by the Forest Service consistent with the Committee's intent that riparian habitat be protected and that such systems do not cause significant adverse impact to the riparian habitat.

The language of the section only limits commercial timber harvesting and not other activities which might be permitted under normal forest management within such a buffer zone.

The 100-foot buffer zones established by this provision are intended to be the minimum protection afforded Class I and certain portions of Class II streams. The Committee does not intend that this provision would preclude the establishment of wider buffer zones where appropriate.

Section 104 deletes the reference to the 4.5 billion board feet mandated harvest level, from the reporting requirements of ANILCA. This is a conforming statement.

Section 105 makes two changes which affect the Small Business timber sale program on the Tongass National Forest. Subsection (a) amends section 14(i) of NFMA to remove the provisions which prohibits small business timber purchasers in Alaska from electing to have the Forest Service construct the necessary logging roads on

awarded timber sales. Presently small business purchasers in all other states, except Alaska, may refuse purchaser road credits and elect to have the Forest Service construct roads. The Committee supports the consistent application of section 14(i) of NFMA across the national forests in all states. However, the Committee intends that the flexibility in road building that this provision provides should be applied to independent timber purchasers, operating under short-term sales.

Subsection (b) adds a new subsection (f) to section 7.5 of ANILCA to affirm that the small business set-aside timber sale program is a permanent and important component of timber management in the Tongass National Forest. The new subsection directs the Secretary to seek to meet the demand of timber purchasers on the Tongass National Forest qualifying as "small business concerns" under the Small Business Act. This provision is made subject to appropriations, the provisions of this Act, the requirements of NFMA and other applicable law in order to clarify that the small business set-aside program should be funded through the general appropriation for the Tongass Forest and incorporated in Forest-wide planning. The Committee does not intend that this language be construed as requiring a specific line item appropriation.

TITLE II—TONGASS NATIONAL FOREST LANDS PROTECTION

Title II of the Committee reported bill amends ANILCA by adding a new section 508, which provides that 12 areas of the Tongass, comprising approximately 673,000 acres, are to be managed in perpetuity in accordance with Land Use Designation II, ("LUD II"). The 12 areas were chosen for special management because of their critical importance for fish and wildlife habitat and their high value to tourism and recreation. The specific management criteria for LUD II areas, as defined in TLMP are included below. The source of these management criteria is the Tongass Land Management Plan, completed March, 1979, and amended Winter 1985–1986 (pp. 8–9).

Land Use Designation II

(1) Purpose: Areas allocated to LUD II are to be managed in a roadless state to retain wildland charcter, but this would permit wildlife and fish habitat improvement and primitive recreational facility development.

(2) Management Implications: Commercial timber harvesting is not permitted. Timber can be salvaged only to prevent significant damage to other resources. Examples are removal of windfall in an important fish stream or control of an epidemic insect infestation.

Personal use of wood is allowed for cabin logs, firewood, float logs, trolling poles, and other similar uses.

Water and power developments are permitted if they can be designed to retain the overall primitive characteristics of the allocated area.

Roads will not be built except to serve authorized activities such as mining, power and water developments, aquaculture develop-

ments, transportation needs determined by the State of Alaska, and vital Forest transportation system linkages.[1]

Mineral development is subject to existing laws and regulations.

Use of snowmachines, motorboats and airplanes on freshwater is permitted; however, restrictions may be imposed on a case-by-case basis if such use becomes excessive.

Permanent improvements such as fishways, fish hatcheries, or aquaculture sites may be built. Appropriate landscape management techniques will be applied in the design and construction of such improvements to minimize impacts on recreation resources.

Major concentrated recreational facilities will generally be excluded.

TITLE III—MODIFICATION OF LONG-TERM TIMBER SALE CONTRACTS IN SOUTHEAST ALASKA

Section 301(a) and 301(b) sets forth definitions and findings to be used in this section.

Section 301(c) legislatively modifies the two long-term contracts as of the date of enactment of this Act, consistent with the eight specific provisions included below.

Section 301(c) (1) ensures that the modified contracts and any environmental analyses prepared in carrying out the modified contracts will be consistent with Forest Service procedures for independent national forest timber sales and will meet all requirements of NFMA, the National Environmental Policy Act of 1969, ("NEPA"), and other applicable law.

Paragraph (2) prohibits the practice of harvesting a disproportionate amount of old-growth timber. This provision assures that the higher volume classes can be harvested only in proportion to the extent that they currently exist within a management area. The term management area is defined in TLMP. Currently the Tongass is divided into 141 management areas ranging in size from a few thousand acres to over two million acres.

Paragraph (3) prohibits the Secretary from offering additional timber to the long-term contract holders unless it has substantially harvested all the timber previously released for harvest, within three years. This provision is designed to prevent the long-term contract holders from harvesting only the better quality timber while continuing to accrue large backlogs of uncut the lower quality stands.

Paragraph (4) directs that the Secretary determine the location, size and timing of timber harvests occurring pursuant to the long-term contracts.

Paragraph (5) allows the contract holders to continue to reject timber that has been offered them if it is unacceptable. However if the rejected timber is bought within 12 months and harvested by

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[1] Vital Forest transportation system linkages refer to necessary additions to the permanent road network. Such linkages may be built through LUD II areas when either no other feasible land or water routes exist to access adjacent LUD III or IV areas or when it can be demonstrated that the routing through the LUD II area is clearly environmentally preferable and site-specific mitigation measures can be designed to minimize the impact of the road on the surrounding LUD II area. A clear need to build such linkages must be demonstrated through a comparative analysis of transportation alternatives during the NEPA process and must be approved by the Forest Supervisor, in consultation with the other Tongass Forest Supervisors.

an independent sale owner, then that amount of volume would be subtracted from that which is under obligation to the long-term contract holder. This provision is designed to allow the long-term contract holders the ability to continue to reject uneconomical timber but provides that if the sale is purchased and harvested by an independent operator, such sale should be acceptable to the long-term contract holder, and is therefore subtracted from the long-term contract holder's obligated timber balance.

Paragraph (6) provides that utility log volume purchased by the long-term contract holders will be counted against contract volume requirements. A "utility" log is a log which is at least 6 inches in diameter at the small end and 12 feet long, has less than one-third of the volume suitable for the production of lumber, yet can produce useable wood chips from at least 50 percent of its volume. In addition, it cannot contain charcoal and must be able to be mechanically debarked. Currently, one long-term contract counts utility volume, and the other does not.

Paragraph (7) directs that purchaser road credits will be provided to the long-term contract holders in a manner consistent with independent national forest timber sale procedures. Currently, on many national forest timber sales, the Forest Service requires that the timber sale purchaser construct the necessary logging roads instead of the agency. The timber sale operator then deducts the price of building the road from the price of timber through a system of purchaser credits. This provision would assure that purchaser credits are applied consistently.

Paragraph (8) directs that stumpage rates, pricing mechanisms and profitability criteria used on long-term contract sales and independent national forest timber sales procedures be consistent.

Section 301(d) directs the Secretary to make the necessary revisions to the text of the long-term contracts to reflect the modifications specified above. The Committee views the action of the Secretary as a purely ministerial task of conforming the literal text of the contracts to the modifications made by the enactment of this legislation. The Secretary must transmit such revised contracts to the Congress along with certification that these revisions are in compliance with such modifications within 90 days after the date of enactment of this Act.

The Secretary is authorized to continue to operate under the contracts as they existed prior to the date of enactment of this Act until such time as the text of the revised contracts is transmitted to Congress, but in no event later than 90 days after the date of enactment of this Act. At such time as the Secretary transmits the revised contracts to Congress, but not later than 90 days after the date of enactment of this Act, the Secretary shall conduct timber sale operations in accordance with the provisions of the modified contracts. After the 90 day time period has expired, the Secretary may conduct timber operations only under the modified contracts, and has no authority to operate under the contracts as they existed prior to the date of enactment of this Act, regardless of whether the Secretary has transmitted the revised contracts to Congress.

Section 301(f) directs the GAO to regularly audit the actions taken by the Secretary in revising the text of the contracts to reflect the modifications made by this Act. The Comptroller General

is required to report to Congress within 30 days of the Secretary's transmittal of the contracts to Congress, but no later than 120 days after the date of enactment of this Act. The report shall describe the revisions made by the Secretary and detail whether, in the opinion of the Comptroller General, the revised contracts are in compliance with the requirements defined in this section.

TITLE IV—HAIDA LAND EXCHANGE ACT AMENDMENTS

Title IV of H.R. 987, as ordered reported, amends the Haida Land Exchange Act of 1986 by adding a new section 12, which provides for the withdrawal of approximately 5800 acres of national forest land in the Sulzer Portage area of the Tongass.

Section 12(a) of the Haida Land Exchange Act, as amended, provides a legal description of those lands to be withdrawn and withdraws those lands, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act.

Section 12(b) entitles Haida Corporation to select from among those lands described in subsection (a) for a period of one year after the date of enactment of this Act. It also directs Haida to notify the Secretary of the Interior as to which lands it selects, and which selection rights it intends to relinquish in return for such selections.

This subsection also provides that the Untied States will reserve a 100-feet easement for use by the State of Alaska for a transportation corridor, but provides that timber harvesting occurring within the easement shall remain the property of Haida Corporation.

Subsection (c) terminates the withdrawal made pursuant to this section 90 days after the United States has conveyed the surface and subsurface estates, or one year after the date of enactment of this section, whichever is later.

Cost and Budgetary Considerations

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 987. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact of personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 987, as reported.

EXECUTIVE COMMUNICATIONS

On January 25, 1990, the Committee on Energy and Natural Resources requested legislative reports from the Department of Agriculture and the Department of Commerce setting forth executive views in H.R. 987. These reports had not been received at the time the report on H.R. 987 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The legislative reports from the Department of Agriculture on S. 237 and S. 346 are included herein. The testimony provided by the appropriate agency at the Subcommittee hearing on Feburary 26, 1990 regarding H.R. 987 follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, March 27, 1989.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you requested, here is our report on S. 237, a bill "To reform the Tongass Timber Supply Fund."

The Department of Agriculture would not object to the enactment of S. 237.

S. 237 would repeal the special funding provision of section 705(a) of the Alaska National Interest Lands Conservation Act (ANILCA) (Public Law 96-487, as amended), thus making the Tongass timber program subject to the annual appropriations process. Direction for the long-term program would be retained, but the annual program would be subject to available appropriations, sufficient market demand, and the sustained yield capacity of the forest.

The timber program on the Tongass National Forest is unique considering the unusual economic and resource situation in Alaska and the size of the investments needed to maintain the program. Congress recognized this unique need in 1980 when the special funding provisions were included in section 705(a). However, if Congress wishes to make the program subject to annual appropriations, we would not object. We do not believe this change would be detrimental to overall National Forest programs in Southeast Alaska.

Furthermore, we believe S. 237 would provide a useful legislative clarification of the 4.5 billion board feet per decade goal. Subject to available appropriations, we would continue the intensive investments needed to achieve an allowable sale quantity of 4.5 billion board feet per decade. However, the 4.5 billion board foot goal would be achieved if, and only if, there was sufficient market demand and such sale offerings were within the allowable sale quantity as defined in the Tongass Land and Resource Management Plan.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

CLAYTON YEUTTER,
Secretary.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, April 24, 1989.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in reply to your request for a report on S. 346, a bill "To amend the Alaska National Interest Lands Conservation Act and for other purposes."

The Department of Agriculture strongly opposes the enactment of S. 346.

Title I of S. 346 would (1) repeal section 705(a) of Alaska National Interest Lands Conservation Act (ANILCA) which would make timber management programs on the Tongass National Forest subject to annual appropriations and delete the requirement to maintain the timber supply from the Tongass at a rate of 4.5 billion board feet per decade, (2) repeal section 705(d) which would make timber management subject to the marginal lands limitations of section 6(k) of the National Forest Management Act (NFMA), (3) repeal section 706(a) relating to monitoring and reporting to congressional committees, (4) expand the scope of the section 706(b) report, and (5) terminate the long-term timber sale contracts between the United States and Alaska Pulp Corporation and between the United States and Ketchikan Pulp Company.

Title II would direct the Secretary to fully revise the Tongass Land Management Plan to conform with several specific requirements.

Title III would impose a moratorium on the sale of timber in 23 areas of the Tongass National Forest which total 1,821,460 acres.

We believe that a major change in the statutory direction for management of the Tongass National Forest is premature. Such considerations by the Congress would benefit from the information being gathered for the revision of the Tongass Land Management Plan which will be available in draft form later this year. New resource inventories for timber, soil, streams, wildlife, and fisheries have been or are being completed. New reseach results will also be incorporated. An Analysis of the Management Situation (AMS) will provide a useful tool in understanding the capability of the Tongass to produce multiple goods and services. The range of alternatives considered during the Tongass plan revision will not be constrained by current law. We strongly recommend that the land management planning process, which was established by Congress, be allowed to function without intervention. That process will generate the data needed to formulate recommendations regarding the need for new legislation. Upon completion of the revised plan, we may be able to

support some of the features of S. 346. Until then, any such legislation would pre-empt the process, and as such would be premature.

If section 101 were amended to repeal only that portion of section 705(a) of ANILCA which provides a special permanent appropriation for the Tongass timber program, we would not object. We do not believe this change to an annual appropriations process would be detrimental to overall National Forest programs in Southeast Alaska.

We do not object to section 102 which would repeal section 705(d) of ANILCA, thus making the Tongass timber program subject to the provisions of section 6(k) of the National Forest Management Act.

Section 103(b) would expand the scope of the biannual report currently required by section 706(b) of ANILCA. This would substantially increase the costs of preparing the biannual report. The additional items to be reported upon are already receiving indepth analysis during the revision of the Tongass plan.

We strongly object to section 104 which would terminate the long-term timber sale contracts. It is difficult to determine the overall effects of this action, because such effects would depend on a complex set of future policy choices. However, it is clear that termination of the long-term contracts could precipitate substantial unnecessary economic dislocations in Southeast Alaska. In addition, enactment of this section would constitute a legislative taking and would require considerable compensation.

The planning requirements of section 202 address issues already being considered during the revision of the Tongass plan. In our judgment, section 202 would impose unnecessary direction on a planning process already well defined by the National Forest Management Act, the National Environmental Policy Act, and other applicable laws.

The moratorium on the sale or harvest of timber in 23 areas that would be imposed by Title III is premature considering the revision of the Tongass National Forest plan that is already underway.

In conclusion, we strongly recommend that any consideration of a major statutory change be delayed until the revision of the Tongass National Forest Land and Resource Management Plan is completed.

The Office of Management and Budget advises that there is no objection to presentation of this report from the standpoint of the Administration's program.

Sincerely,

CLAYTON YEUTTER,
Secretary.

STATEMENT OF PATRICIA M. KEARNEY, ACTING ASSISTANT SECRETARY, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the subcommittee, thank you for the invitation to present the Administration's views on H.R. 987, the "Tongass Timber Reform Act". With me today are George Leonard, Associate Chief of the Forest Service, and Mike Barton, Regional Forester for the National Forests in Alaska.

Alaska is a special place to all Americans, and we in the Administration are sensitive to the wise conservation and the multiple uses of the State's precious and unique resources.

The National Forest Management Act of 1976 requires the preparation of land management plans to direct the management and use of each National Forest. It also requires that each plan be revised periodically to accommodate changes in management needs. The revision of the Tongass National Forest plan is the Nation's first revised plan. It is scheduled to be completed in draft form within the next few months. This draft will outline proposed changes by displaying a number of management options. These options will reflect significant change in public interest and significant economic considerations which have occurred during the past 10 years.

The Forest Service has spent about $7 million during the past 2 years working on this revision. It is a multi-disciplinary effort and will reflect the excellent work of not only the Forest Service scientific team, but also interested individuals, agencies and interest groups.

The revised plan will provide us much better information upon which to make the very important land use and management decisions required to maintain the quality of the Forest's complex of resources.

Therefore, we strongly urge the Congress to defer current legislative action and allow the process which has been mandated by the National Forest Management Act to continue.

Associate Chief George Leonard is prepared to give you more details about the Department's views on H.R. 987. Thank you, Mr. Chairman and Members of the Subcommittee for this opportunity to appear before you today.

STATEMENT OF GEORGE M. LEONARD, ASSOCIATE CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the Departments views on H.R. 987, the Tongass Timber Reform Act. With me today is Mike Barton, Regional Forester for Alaska.

The Administration opposes enactment of H.R. 987.

H.R. 987 would repeal sections 705(a) and 705(d) of the Alaska National Interest Lands Conservation Act (ANILCA), terminate the existing long-term timber sale contracts in Alaska, require 100-foot buffer zones along anadromous fish streams and their tributaries in which no logging would be permitted, and designate 23 new wilderness areas in the Tongass National Forest.

As you requested, our testimony today will focus on the proposed buffer zones along anadromous streams and the designation of new wilderness areas.

BUFFER ZONES (SECTION 104)

We strongly support special management of riparian areas to protect key fish and wildlife resources. The National Forest Management Act and our implementing regulations already require the protection of fish habitat within the National Forests. We give pri-

ority consideration to riparian resources including actions needed to maintain or enhance fish habitat and water quality. Site-specific prescriptions result in variable buffer widths depending on the on-side conditions, and may extend well beyond 100 feet.

A single minimum-width buffer zone policy does not recognize the tremendous variability in site-specific conditions nor the range of respective management options available and often necessary to achieve our overall management objectives. Therefore, we object to a legislatively mandated buffer, preferring instead to continue our work with other Federal agencies and the State of Alaska to develop appropriate site-specific standards to address these concerns.

Our streamside management today is based on the sound application of the best riparian and instream habitat technology available. Professional fisheries biologists, hydrologists, Forest Supervisors, District Rangers, and other field personnel are committed to protecting stream and streamside resources. Our nationwide fisheries initiative, "Rise to the Future", has provided a growing force of professional fisheries biologists at all levels of the organization.

We have 24 full-time biologists on the Tongass National Forest today. These fisheries experts are working with all other professional and technical disciplines to provide an increased emphasis on quality management of the fishery habitat in each of the forest planning areas. A part of this initiative is the strengthening of our fishery and riparian habitat monitoring efforts.

Following field investigations, streamside management prescriptions are implemented to protect or enhance fish habitat at specific sites. In 1986, an Aquatic Habitat Management Handbook was prepared by a team of professionals from the Forest Service, Alaska Department of Fish and Game, U.S. Fish and Wildlife Service, and National Marine Fisheries Service. This document now guides our field personnel in protection of the fisheries resource. The factors we consider include stream class, stream channel and bank characteristics and condition, water temperature, soil characteristics, fish passage capability, water quality, the amount of large woody debris, and the timing of bridge and culvert installation.

During the timber sale planning process, we provide an individual design for each stream and utilize timber harvest prescriptions and practices as tools to modify the forest vegetation to achieve a desired vegetative outcome. We believe this is the best way to protect the fisheries resource while also managing other resource opportunities.

As passed by the House on July 13, 1989, section 104 of H.R. 987 would require buffer zones along all streams except those with no resident fish populations and those that are very small or do not flow year-around. This would significantly and unnecesarily reduce other management options. The importance of protecting the ecological function of anadromous streams is undisputed, however, we feel this can best be accomplished with site-specific designs developed by resource professionals representing the Forest Service, other concerned Federal agencies, and the State of Alaska.

ADDITIONAL WILDERNESS DESIGNATIONS (TITLE III)

As part of the Tongass Land and Resource Management Plan revision, we are considering many interrelated planning questions including: What primitive unconfined outdoor opportunities are provided by the non-designated wilderness lands? How should wilderness and unroaded areas be managed to meet future demand for recreation use? What effect does wilderness designation have on the tourism-recreation industry? Where and how much commercial activity should be permitted in wilderness? Are other designations such as Wild and Scenic Rivers more appropriate? Are additional wilderness designations needed?

There are 1.6 million acres of commercial forest land within existing designated wilderness on the Tongass. The 1.8 million acres proposed for wilderness designation by H.R. 987 contain about 700,000 acres of commercial forest land, of which 250,000 acres are scheduled for harvest over the next 100 years in the current Tongass Land Management Plan. This potential reduction in the Forest's suitable timber base could adversely affect our ability to provide a supply of timber to local mills. Designation of these areas as wilderness might also block access to timber in areas not designated as wilderness. We also recognize that many areas on the Tongass National Forest are used for their fish, wildlife, and recreation values, and many people want these areas managed to retain their pristine nature. However, wilderness designation is not the only way to protect these important wildlife and recreation values.

We strongly recommend against designating additional areas as wilderness without a complete evaluation of the various options available (including Wild and Scenic Rivers). The Tongass plan revision process is making this evaluation now.

TONGASS LAND AND RESOURCE MANAGEMENT PLAN

We are following congressional direction in the National Forest Management Act (NFMA) to periodically revise Forest Plans, and the revision of the Tongass plan is well underway. The Tongass was the first National Forest to complete a forest plan under NFMA, and it will be one of the first to complete a revised plan.

When the Alaska National Interest Lands Conservation Act was passed in 1980, Congress used information from the original Tongass plan in formulating the legislation. The NFMA process can again provide important information for the Congress and others as legislation such as H.R. 987 is considered.

From the start of the plan revision process, we have encouraged public participation. We have held public meetings in most of the communities in Southeast Alaska, Anchorage, Seattle, and Washington D.C. We have also received written input from many people. Public concerns and input will be addressed in the plan revision.

We have implemented a Geographic Information System (GIS) to help our team of professional resource specialists and the public analyze data on the Tongass—our largest National Forest. Implementing GIS has not been without difficulties, but we have made significant progress, and the results are now paying big dividends.

For example, we are now better able to predict changes in wildlife and fish habitat capability that could occur as a result of re-

source management activities. New wildlife and fish habitat capability models have been jointly developed by professional biolgoists from the Forest Service, Alaska Department of Fish and Game, U.S. Fish and Wildlife Service, and the National Marine Fisheries Service. Our predictions for fisheries habitat show that the capability will be maintained or enhanced under various resource management options.

New stream inventories have been or are being completed. Studies related to projected demands for recreation, timber, subsistence use, fish, and wildlife are also underway. New research results are also being incorporated. Based on this new information, the draft Environmental Impact Statement will describe and evaluate alternative ways to manage all the resources of the Tongass—fish, wildlife, wilderness, timber, and recreation.

We have reached an important milepost in the Tongass plan revision process. "Understanding the Past . . . Designing the Future" is a new publication that provides the public with a nontechnical overview of resource relationships, opportunities, and limitations on the Tongass National Forest. Copies of "Understanding the Past . . . Designing the Future" have been provided to the Subcommittee.

We are considering a wide range of alternative management themes consistent with the identified public issues and the assessment of resource conditions. These alternative management themes include:

The actions that would be required if H.R. 987 were enacted;

The Alaska Southeast Conference proposal that would incorporate a mix of commodity and amenity values suggested by a coalition of Southeast Alaska communities;

The current management direction; and

An alternative that would emphasize the economic value of the mix of those resources produced on the Tongass.

These alternative themes will be used to develop, analyze, and compare management alternatives. If, as a result of our resource analysis and review of public comment, we determine that an alternative not consistent with the goal of 4.5 billion board feet per decade is appropriate, we will recommend that the current statutory direction be modified.

Our goal is to complete a draft Environmental Impact Statement for the revised plan by mid-summer. Information from our data and complex modeling using the GIS computer system and the FORPLAN model will enable us to show the public and the Congress how different alternatives respond to public concerns and resource conditions.

We believe that any major change in the present statutory direction for the management of the Tongass is premature. Possible statutory changes could best be addressed after the draft Environmental Impact Statement is available to the Congress and the general public.

In conclusion, we are doing our best to carry out congressional direction in fulfilling our land stewardship responsibilities on the Tongass National Forest. We believe that a major statutory change would be premature at this time. We are only 3 or 4 months from the release of the draft EIS for the revision of the Tongass Land

and Resource Management Plan. We urge the Congress to wait for this new information before considering major statutory changes such as those in H.R. 987.

Mr. Barton and I would be happy to answer your questions or provide any additional information you may desire.

STATEMENT OF DR. JAMES BROOKS, DEPUTY REGIONAL DIRECTOR, ALASKA REGION, NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Mr. Chairman, and members of the subcommittee, I am Dr. James W. Brooks, Deputy Director of the Alaska Region of the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA). I appreciate the opportunity to appear before this Subcommittee on behalf of the Department of Commerce to discuss the provisions of H.R. 987 relating to fisheries protection and buffer zones.

The Department of Commerce/NOAA has primary Federal responsibility for the conservation, management, and development of marine living resources and shares Federal responsibility for the conservation and management of anadromous fish and the protection of certain marine mammals and endangered species under numerous Federal laws. For this reason, the Department is vitally concerned about the habitats that support these resources since the well-being of these resources and the fishing industry depends upon healthy and productive habitats.

NOAA has been involved with research on the effects of timber harvest on the Tongass National Forest since the mid-1950's. Our research staff has studied the effects of timber harvest on anadromous fish streams in the Tongass National Forest and is recognized for their expertise on logging and riparian issues. They have published extensively and have authored over 20 scientific publications which apply directly to this issue. Our habitat management staff has worked closely with the issue through evaluation of numerous environmental studies, participation on interdisciplinary teams drafting guidance documents, and through planning processes such as the Tongass Land Management Plan.

Anadromous fish streams on the Tongass National Forest support all five species of Pacific salmon (pin, chum, coho, sockeye, and chinook). To commercial harvest of salmon in southeast Alaska was valued at $128 million (ex-vessel value) for 1989. According to the U.S. Forest Service, ninety percent of those fish came from stream habitat within the Tongass National Forest. Recreational fishing also contributes a substantial amount to the economy of southeast Alaska. Recreational fisheries in Juneau alone amount to about $15 million annually. Subsistence fisheries for salmon in southeast Alaska amount to an additional $2.5 to $6.0 million annually. Reasonable and prudent timber harvest practices are extremely important to sustaining these vital fisheries.

In 1976, the NMFS Alaska Region issued a policy statement calling for mandatory buffer zones of riparian vegetation along all salmon streams. Extensive research on buffer zones and salmonid habitat requirements resulted in a revision of the NMFS Policy in

May 1988. This revision, which was based on a greater understanding of the importance of buffer zones, specifies a minimum no-harvest protective buffer zone along all streams in Alaska that are important to anadromous fish.

It states: "In order to maintain optimum production of anadromous salmonids the NMFS policy is to advocate the protection of riparian habitat through the retention of buffer zones along all anadromous fish streams and their tributaries in Alaska. NMFS will seek to ensure that a minimum buffer zone width of 30 meters (100 feet) be maintained on each side of the steam, and should consist of the natural/existing undisturbed forest. This policy addresses only the minimum buffer zone width. In some cases a wider zone is necessary to protect fisheries resources. Additional research is needed from which more site-specific prescriptions can be developed."

The buffer width recommendation is based on scientific evidence compiled from research conducted in Alaska under the auspices of the Alaska Working Group on Cooperative Forestry/Fisheries Research which is comprised of State, Federal, and private entities and from the extensive research conducted in the last 10–15 years throughout the Pacific Northwest. Scientists and managers agree that the natural undisturbed riparian vegetation adjacent to streams is a critical and integral component of fish habitat. Salmonid habitat depends on riparian vegetation in the old-growth forest to provide large woody debris (LWD), shade and cover, temperature moderation, streambank erosion protection, and to maintain water quality. LWD is the single most important component responsible for forming the majority of habitat (e.g., pools, undercut banks, instream cover, stable spawning beds, channel morphology, etc.) critical to the production of salmonids in the Pacific Northwest and Alaska. Research in Alaska has shown that nearly all (99%) of the LWD in streams comes from trees growing within 30 meters (100 feet) of the streambank. Nearly ½ of the LWD was from trees that had stood on the lower bank (less than 1 meter away), and 95 percent was from trees within 20 meters of the stream. The distance to LWD sources, however, differ between stream channel types. The quantity of LWD in these pristine streams is high and is directly correlated with the abundance of salmonid habitat. This stream habitat sustains optimum egg-to-fry survival, provides nursery areas for juveniles, serves as overwintering refuge, and yields smolts (outmigrating juvenile salmon) which ultimately generate the adult salmon returns from the ocean.

Because the natural depletion rate of LWD resulting from decay, fragmentation, stream export, and other events is relatively high (1–3 percent per year), a continuous supply of wood from the riparian zone is needed to offset the natural loss and maintain salmonid habitat. If these streams are logged down to the streambank without leaving any buffer to replenish the natural loss of LWD, then we predict that the level of LWD will be reduced by at least 70 percent in 90 years. The abundance of rearing salmonids would likewise be reduced over a similar time. Recovery of LWD to the original pre-logging level from the regeneration of second-growth trees next to the stream would take about 250 years. Stream productivi-

ty would also be reduced during the period of regeneration and canopy closure. It is our opinion that, as a consequence, habitat and salmonid abundance would be significantly and irreparably damaged over this period of logging and recovery.

The riparian sources of LWD on tributary streams (streams used by only resident fish or those important for water quality) upstream of anadromous streams must also be protected because these streams contribute LWD and influence water quality in important downstream habitats. Buffer zones on these streams maintain the integrity of side slopes, streambanks, and stream channels and thus reduce the threat of landslides and debris torrents which can cause excessive downstream sedimentation. In essence, old growth riparian vegetation controls and maintains the natural integrity of a stream's characteristics critical to salmonid production.

Research has shown that clearcutting to the streambank without retaining an adequate zone of riparian vegetation adversely affects fish habitat, which in turn affects fish production on both a short- and long-term basis. Short-term (1–20 years) degradation of riparian habitat can result from increased sedimentation, altered temperature and streamflow regimes, and reduced quantity of LWD. Long-term degradation of habitat (20–200 years) can result from closure of the second-growth canopy, reduced input of LWD by the second-growth trees, changes in stream channel morphology, and chronic sedimentation from streambank erosion, landslides, and roads.

The NMFS policy advocates the use of a minimum 30-meter buffer on each side of all salmon streams and their tributaries as a recommended method of curtailing both short-term and long-term detrimental impacts on fish habitat from timber harvest. Land managers should recognize that the minimum 30-meter zone of riparian vegetation adjacent to salmon streams and tributaries represents the "out-of-stream" habitat required to protect and maintain "in-stream" habitat at optimum levels. MNFS established the 30-meter minimum because buffers less than 30 meters will not adequately maintain fish habitat. Buffers wider than 30 meters may be needed in some situations to protect the "minimum" from particular hazards such as blowdown, braided stream channels, or landslides.

The NMFS Policy of protecting the riparian habitat of all anadromous streams and their tributaries by retaining a minimum 30-meter no-harvest buffer zone applies to all Class I, most Class II, and a few Class III streams in southeast Alaska. These categories are defined as follows:

> Class I streams include any natural freshwater body of water (including lakes and ponds) containing anadromous fish or eggs or high value resident sport fish or with habitat having reasonable enhancement opportunities for anadromous fish.
>
> Class II includes streams, tributaries, and ponds with resident fish of limited sport value generally occurring in steep gradients or upstream of migration barriers.
>
> Class III streams are tributaries which do not have fish populations but have potential water quality influence on downstream habitat.

Class II streams are of great importance because they maintain water quality and supply LWD for downstream habitat in Class I streams. Class III streams which can significantly influence water quality on downstream Class I and II streams because of their size, or have high risk for side-slope and/or streambank failure, may require the protection of a full buffer zone.

We do not intend the Policy to apply to Class III tributaries which are either ephemeral (seasonal) or intermittent or have a gradient generally greater than 8 percent. In other words, the Policy does not apply to high gradient tributaries or storm drainages which do not have salmonids or do not have continuous flow. Also, it is not necessary to require buffer zones on Class II and III streams which do not flow into a Class I stream because they do not provide habitat for anadromous fish. These streams only require harvest according to best management practices to maintain water quality standards. The high gradient and storm channels which comprise the majority of Class III streams account for the greatest amount of acreage in a watershed.

In summary, research has demonstrated the importance of the riparian zone as fish habitat and that timber harvest within 30 meters of the streambank in this zone can cause long-term damage to salmonid habitat and production. The NMFS therefore, advocates retention of a minimum 30-meter no-harvest buffer zone along with sides of all anadromous fish (Class I) streams most resident fish (Class II) streams, and a few significant water quality influence (Class III) streams in the forest of southeast Alaska. We are prepared also to assist in defining those Class II and III streams where buffer zones would be appropriate.

The NOAA policy would provide reliable protection of fish habitat during and after timber harvest. It would also set a bottom line that will facilitate decision making. The policy is relatively simply to apply. Protection of important anadromous streams would be far less compromised by lack of expertise, inadequate data, personnel or budget limitations, or competing interests. The minimum buffer standard would provide planners with an advance knowledge of harvest limitations. It would also provide an enforceable standard that lends itself to monitoring. The ease with which this standard can be implemented, monitored, and enforced should encourage compliance by managers and industry.

We do not view the timber retained in a buffer as "lost" from timber production, but rather, as timber required for fish habitat in the true sense of multiple-use. Commercial, recreational, and subsistence fisheries share the forest as a common base for their existence. Thus, we believe retaining a small but critical portion of the forest for production of fish is the basic precept of wise use and progressive stewardship of the land.

Mr. Chairman, this completes my prepared statement. I will be glad to answer any questions.

ADDITIONAL VIEWS OF SENATORS METZENBAUM AND BRADLEY

The committee has reported a bill which takes us forward in remedying the problems that currently beset the Nation's largest national forest, the Tongass National Forest. For that reason, we voted to report the bill. At that time, we thanked our committee chairman for his efforts, and we wish to again express appreciation for his leadership.

We also feel compelled to reiterate another point made during the committee deliberation, and that is that we need to provide additional protection around important streams and tributaries in the Tongass that are priceless in terms of their fish, wildlife, recreation, and subsistence hunting and fish values. The way to protect these areas is through wilderness designation and unlogged buffer zones adjacent to streams.

Congress passed the Wilderness Act in 1964 because of increasing concern about the loss of lands untouched by man. More and more, people are coming to realize the foresight of that action by Congress.

Wilderness designation is the best management tool available to protect critical fish and wildlife habitat. By managing areas so that they are primarily affected only by the forces of nature, we preserve habitat in prime condition. Land left in its pristine condition—the way it was created in the first place—is best suited to protect fish and wildlife and to protect scenic qualities.

The House has passed a Tongass Timber Reform Act by an overwhelming margin, 351 to 60. Some of that bill's provisions are very similar to our committee-passed bill. In other respects the House bill may be preferable. To afford land protection the House bill designates as wilderness 23 key fish and wildlife areas, totaling 1.8 million acres. To protect streams the House bill provides 100-foot buffer zones where no logging is permitted on each side of all anadromous fish streams and their tributaries.

The 23 areas nominated by the House deserve consideration by this body for protection as wilderness because they have exceptional values for fish and wildlife, recreation, scenic grandeur, subsistence hunting and fishing, and scientific research. The areas contain very rare, ancient stands of essentially irreplaceable temperate rain forest. Comprised of trees 200 to 800 years in age, the old growth forest provides critical habitat for deer, grizzly bear, bald eagles, marbled murrelets, and other wildlife. This special forest occurs primarily along rivers and their tributaries where clearcutting leads to erosion, detrimental changes in water temperatures, degradation of salmon habitat, and diminished esthetics.

The 5.4 million acres of currently designated wilderness in Tongass is mostly rock, ice, scrub timber, or marginal forest lands, and therefore not commercially important. A mere 2 percent is com-

mercially important for timber harvest by Forest Service standards.

The designation of 23 additional areas would have a minimal impact on the local timber industry. Protecting these 23 areas would reduce the scheduled timber base from 450 million board feet per year to 400 million board feet. The timber companies are not even approaching that level of use. The average annual timber cut from 1980 to 1988 was 285 million board feet.

The type of protection intended for critical fish and wildlife habitat on the Tongass is permanent. The intent is to prevent those activities which would jeopardize fish and wildlife populations or which would harm the habitat essential to fish and wildlife.

Another aim in setting these areas aside for permanent protection is to protect scenic qualities and pristine characteristics.

Congress has established a very viable management prescription to protect land in a manner well-suited for the Tongass National Forest: wilderness. Wilderness designation affords protection from clearcutting, mining, and road building.

The fishing and tourism industries in Alaska depend on the protection of the forest, particularly high-value old growth or ancient forest. Destruction of valuable salmon-rearing streams, or devastation of the wilderness that tourists go to Alaska to see, through logging or road building, have a very detrimental impact on significant components of the southeast Alaska economy.

The best way to guarantee protection for these industries is to designate key areas as wilderness. The tragedy of the *Exxon Valdez* in the Prince William Sound demonstrates that even remote areas that some might have thought were immune from man's mistakes, are not. If we are to leave a lasting legacy for subsequent generations of Americans, our best chance is to designate key sections of the Tongass as wilderness.

Through the leadership of the committee chairman, the committee has reported a good bill. While the bill goes a long way toward protecting some of the key fish and wildlife areas in the Tongass, we reserve the right to address the issue of additional wilderness designation and additional buffer zone protection when the full Senate considers the committee bill.

HOWARD M. METZENBAUM.
BILL BRADLEY.

ADDITIONAL VIEWS OF SENATOR WIRTH

I wish to commend the Chairman and the Members of the Committee for moving Tongass reform forward. The reporting of a bill by the Committee is an accomplishment of which the Chairman should be proud, given the controversy surrounding this issue.

As I see it, the task before us is to change the management of this largest of our national forests so that it is consistent with the laws applicable to all other national forests, consistent with the protection of the Tongass National Forest's unique and important environmental resources, and consistent with the public interest in a fiscally sound program of forest management.

As the primary sponsor of S. 346, I would have preferred far stronger measures to achieve these ends than those adopted by the Committee. After chairing hearings in Alaska on this issue, visiting the Tongass to see it firsthand, and participating in hearings here in Washington, I strongly believe that the measures proposed in S. 346—which has been cosponsored by 53 Senators—would have provided a sound basis for correcting the management of this forest.

S. 346 would have required termination of the two 50-year contracts with large pulp and timber mills which have not only cost the government hundreds of millions of dollars, but also have distorted the management of every resource on this forest by elevating its timber program above all other resources.

The bill reported by the Committee attempts to change the contracts, but leaves intact their basic framework—the maintenance of exclusive zones in the forest within which the two mills have a monopoly on federal timber.

S. 346 would have repealed provisions of ANILCA which set up a different set of rules for managing the Tongass than apply to every other national forest. Those differences included specifying a timber harvest goal of 4.5 billion board feet per decade, and exempting the Tongass from section 6(k) of the National Forest Management Act, which requires consideration of economic factors in defining which timberlands on a forest are suitable for timber management.

The reported bill repeals the unrealistically high and uneconomic 4.5 billion board foot goal, but replaces it with a direction to the Forest Service to seek to meet the market demand for timber. No other forest has such direction, which could greatly affect how well this bill will meet the goal of ending the domination of the timber program over all other aspects of resource management on the Tongass.

The reported bill restores part of the applicability of section 6(k) of the NFMA to the Tongass, but specifically shields the Tongass from the use of economic criteria in determining which lands on that forest are suitable for timber management. No other forest enjoys that exemption, though perhaps no other forest needs it

more. It is the Tongass, after all, which has lost more money through the operation of its timber program than any other.

The testimony of the State of Alaska and of hundreds of Alaskans from all walks of life at our hearings made it clear that permanent protection of certain lands from timber harvest was one of the keys to a resolution of the Tongass controversy. S. 346, introduced before those hearings, did not include permanent protection of lands, providing only for a moratorium on timber harvest in 23 areas (1,800,000 acres) while new planning for the fate of these areas and the rest of the forest took place.

The reported bill does provide for the protection of 12 areas from timber harvest (673,000 acres), in line with the suggestion of the Governor and of the original proposal propounded by the Southeast Conference, a southeast Alaska civic organization. I believe strongly, however, that many, if not all, of the other areas identified in S. 346 deserve similar protection. Other areas, including Salmon Bay Lake on the north end of Prince of Wales Island, were equally deserving.

S. 346 did not include provisions setting up "buffer zones" around key salmon streams in which timber harvest would be prohibited, although it directed the Forest Service to "significantly increase" the protection of fish, and give protection of this resource priority in its planning. The use of buffer zones to achieve these ends was raised at hearings in Alaska and in our last hearing in Washington, D.C., where fishing industry groups, the State Department of Fish and Game, and the National Marine Fisheries Service all testified to the desirability of protecting lands around streams with salmon populations and their tributaries, including small tributaries upstream.

The amendment proposed by Chairman Johnston proposed a 100-foot buffer zone on each side of every Class I stream (streams with salmon populations) and Class II tributaries of the Class I streams (these are tributaries with resident populations of fish other than salmon). This marked a compromise from the buffers supported by the above-mentioned groups, which recommended protecting not only all Class II streams, but also certain Class II streams (streams without fish populations, but with important influence on water quality downstream) as well.

Unfortunately, the Chairman's proposal was further weakened by an amendment by Senators Wallop and Murkowski which deleted much of the protection of Class II streams, leaving buffer zones around only the first 300 feet of such streams upstream of their confluence with Class I streams.

I voted against this amendment as I believe it was an unwise alteration of a measure recommended by professional biologists and hydrologists to protect an important economic resource of the Tongass—its salmon and steelhead fisheries, sport and commercial.

I pledged to support Chairman Johnston's substitute, despite my reservations, on the understanding that both sides would accept it as a well thought-out compromise in which both sides had achieved an acceptable minimum of progress toward their goals.

However, in Committee the Senator Murkowski insisted on further amendments which reduced the substance of the substitute beyond what I can accept as a minimum.

In addition to the changes in stream buffer zones referred to above, at markup the Committee accepted changes to the language on how the long-term contracts should be changed and changes relating to timber sales reserved for small business (a subject the Committee had never before addressed). In addition the Committee reserved the possibility of further reductions in areas protected from timber harvest by the bill.

All of these changes go beyond what is to me an acceptable balance between the public interest in reform and the interests of a timber industry which has reaped great gains from the Tongass at the expense of the Treasury, of the environment, and of the non-timber resources of this forest.

As a result, I will offer amendments to this bill on the floor to reverse these changes and to give the Senate the opportunity to vote to accomplish greater reform in the operations of the Tongass National Forest.

TIMOTHY E. WIRTH.

ADDITIONAL VIEWS OF SENATORS McCLURE, BURNS, NICKLES, MURKOWSKI, McCONNELL, WALLOP, AND GARN

There are a number of issues in the legislation before us which we would like to address.

First, there is a situation involving the critical need to maintain riparian habitat. The National Marine Fisheries Service has in the past stated, "Rather than relying on guidelines that have little flexibility from site to site, managers need to rely on the knowledge of foresters, engineers, hydrologists, wildlife and fishery biologists, and other disciplines as needed to tailor forest management operations to the constantly changing characteristics of the landscape and streamside areas."

As it turns out, what we considered enlightened management does not apply to the Tongass.

If the Forest Service lacks expertise, inadequate data, or suffers from personnel or budget limitations, as the National Marine Fisheries Service now suggests, those specific issues should be addressed and resolved. But to come full circle and now advocate a policy to maintain a 100-foot buffer zone simply because the policy is relatively simple to apply, does not leave room to tailor Forest management operations to enhance the fishery or manage the entire riparian habitat.

The Committee chose to micro-manage this forest in this manner, notwithstanding the fact that not one shred of evidence was presented to this Committee which would indicate current management practices have had an adverse impact on the fishing industry.

In fact, during the 1980–1986 period, commercial fisheries harvested over 144 million pounds of salmon annually. Since 1983, the catches have averaged over 30 million fish per year, which is much higher than the historical averages, with two all-time records set in the last four years. Someone must be doing something right, which we find refreshing. Unfortunately, because of the action taken by this Committee, we will probably never know who that someone was.

In addition, we wonder how long it will be before these enlightened managers will choose to apply the same standards to the Forest System in the lower 48 states.

Second, the Tongass Land Management Plan is the nation's first Forest Plan to be revised. Since 1987, the cost of this effort to the taxpayer now totals $6,974,492.

As directed, the Forest Service has included a program of unprecedented public involvement. In addition, a most significant opportunity for public involvement will be available soon when the draft Environmental Impact Statement for the revised plan is released in June. This publication will display alternative choices for

management and provide the public an opportunity to review and comment on all work completed in the revision process to date.

We fail to see the wisdom in designating additional restrictive land management areas prior to the release of the revised Plan. The public has been and will be given the opportunity to have their voices heard and to participate in the planning process. It is fundamentally wrong for us to circumvent the very process we mandated in the National Forest Management Act of 1976. The Committee chose to ignore the best available information from the professionals in Alaska. Instead, the Committee chose to utilize the original recommendation from the Southeast Conference—a group of municipal and civic entities, located in Southeast Alaska. That recommendation was adopted by the Conference on a six to five vote last year. Earlier this year, by a nine to two vote, the Southeast Conference revised its recommendation to Congress regarding land set-asides. In that recommendation, it retained the exterior boundaries of the original set-asides, but the Conference provided for harvest and no-harvest zones within each of those areas which created a more balanced approach. The Southeast Conference testified at the Committee's most recent hearing, recommending that its revised proposal be that which the Committee should adopt. The Southeast Conference also requested the Committee to wait for the draft revision of the Tongass Land Management Plan. Its recommendations were only made based on the Conference's understanding that the Committee intended to act prior to full completion of TLMP process.

Our concern regarding the land set-aside package springs from the failure of the Committee to utilize the official Southeast Conference position, as expressed in its testimony at the February hearing. There seems to be no good reason to utilize its original position when it has been revised and is clearly the overwhelming position of the Southeast Conference. Additionally, the Southeast conference believes that it is most useful to await the full planning process which has just a few months remaining. We agree with this and believe that the Committee should have eliminated the land set-aside issue from the legislation in its entirely and left that to the land planning process. This is the Southeast Conference recommendation, the recommendation of the land managing agency, the U.S. Forest Service, and the process which we hope someday will become rule rather than the exception for Southeast Alaska. This is the second time that Congress has moved to intervene in the planning process after millions of dollars have been spent, and just as the planning process is in its final stage, literally only months from completion. This is not the process outlined in the National Forest Management Act and is not the way we believe the land planning process on the Tongass Forest should be accomplished.

Another concern with the imposition of the management prescription of Land Use Designations (LUD) II, is the impact on nontimber management options. During the Committee consideration, the Chairman, who offered the amendment, noted that the prescription was not intended to foreclose the routing of roads and other transportation corridors which are necessary for the future growth of the State of Alaska and that the issue could be simply clarified by a colloquy on the Senate floor. During the markup, the

Chairman stated, "It was not our intention to prohibit roads. To the contrary, LUD II specifically authorizes in states that roads may be built 'to serve authorized activities such as mining, power and water developments, aquaculture developments, transportation needs determined by the State of Alaska, and vital Forest transportation system linkages.' That is the specific language of LUD II, and if that is not clear, we can incorporate it in report language." We are not nearly as sanguine as the Chairman with respect to the value of a floor colloquy on those who would interpret the LUD II policy of "primarily roadless" to mean "completely roadless". The initial objective of preventing commercial timber harvesting has been transformed into prescriptive land management which will undoubtedly accomplish the original objective at the price of having the Committee constantly enacting special relief measures. Specifying LUD II but then saying that we really don't mean LUD II in every case is not good legislation. Is a blanket prohibition on intensive recreational development in all the areas set aside under the amendmenbt really necessary? Is some development so anathema that it must be prohibited? Must the State of Alaska constantly petition for relief because the Forest Service is afraid of litigation and would rather deny any roads as the easier course really what this Congress should enact as sound federal policy? We think not and to the extent that the Congress would prefer to enact LUD II rather than a ban on commercial timber harvesting, we should specify in the legislation those aspects of LUD II which we feel should be liberally interpreted.

Third, an issue which was deferred for floor consideration was the Greens Creek land exchange amendment. This amendment provides for a land exchange between the Sealaska Corporation, the Alaska Native Regional Corporation for Southeast Alaska, and the Federal Government. Sealaska would obtain ownership of certain subsurface lands surrounding the Greens Creek Mine in return for a variety of surface and subsurface lands it holds throughout Southeast Alaska. In addition, the U.S. Government would receive a "value equalization payment" of ten per cent (10%) of any net proceeds Sealaska from the development of the Greens Creek lands if minerals are discovered there.

This is a good amendment which deserves to be included on the floor. The amendment would consolidate land ownership in Southeast Alaska and provide for further exploration of the Greens Creek area where an existing mine already is in operation. The Green Creek mine was specifically established pursuant to the exploration and development terms of the Alaska Lands Act. This land exchange would facilitate further exploration and potential development of the mine, thereby providing additional needed jobs and tax base in Southeast Alaska.

The estimated life of the Greens Creek mine is only ten years. Section 503 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) permitted a five-year period for further exploration on existing claims, which subsequently expired in 1985. The entire area has not been explored, nor can it be because of the expiration of this provision under ANILCA. The proposed exchange would permit further exploration, and if minerals are discovered, permit development of these minerals. By all accounts, the mine is

a shining example of how resource development can occur in an environmentally sound and sensitive way. Most of the activity is underground, and the mine was developed without lawsuits and is generally supported by all elements of Southeast Alaska, including the environmental community. The mine currently employs 250 people and has an annual payroll of $10 million. Here is a situation in which an extension of the mine could occur by allowing the area surrounding the mine to be explored and potentially developed.

The inclusion of this amendment to the Committee bill on the floor is particularly appropriate since the bill deals with a variety of important issues to Southeast Alaska. This land exchange has been widely circulated and discussed among all interested parties. This is an issue which should be included as a floor amendment.

Fourth, of particular concern to us is the Chuck River area, south of Juneau. This area is directly adjacent to private lands held by the Goldbelt Corporation. Ten years ago, the Goldbelt Corporation voluntarily relinquished a land selection on Admiralty Island to which it was entitled under the Alaska Native Claims Settlement Act. This was done to facilitate the set-aside of Admiralty Island as a National Monument. The Goldbelt Corporation moved its selection to lands adjacent to the Chuck River area on the mainland, based on its understanding that it would be allowed not only to harvest the area which it obtained, but also that it would be in a logical position to bid on National Forest timber sales in the Chuck River area adjacent to its landholding. This expectation was one reason Goldbelt moved its land solution and its significant investment reflects this expectation. Goldbelt is now completing timber harvest on its holdings and is beginning to plan for timber harvest on adjacent lands. This timber harvest is by no means guaranteed. It would require a successful bid by Goldbelt under the normal Forest Service timber bidding process and require that all of the provisions of the National Forest Management Act be compiled with before timber harvest could accrue. However, the Committee set-aside will close the entire area to timber harvest and prevent any opportunity for Goldbelt to compete for harvesting timber in that area. This is clearly unfair and contrary to what Goldbelt was led to believe when it moved off Admiralty Island to this set-aside, and should be changed.

Goldbelt spent several million dollars in its move off its selection from Admiralty Island to the area near Chuck River. It has spent another $17 million in the development of its current timber harvest infrastructure in the area. Its current operation employs over 170 people with a payroll of $8.8 million. Its current timber operation will be competed in 1991, and these people will be unemployed unless Goldbelt is allowed to bid for timber in the Chuck River area. Its operation will end and the economy of Southeast Alaska will suffer the loss of millions of dollars each year. There is no practical alternative to the Chuck River area for Goldbelt. The Chuck River area should at least remain open for timber harvest during the next planning cycle, to permit the Forest Service to plan timber harvest in the area and determine if Goldbelt can qualify through the bidding process to harvest that timber.

During the Committee markup, discussion of this problem was deferred to floor consideration. It is absolutely essential that this

be one of the floor amendments which the Committee includes in the bill, so that the equity of Goldbelt's situation can be properly resolved.

Fifth, the last item which will require attention of the Senate is the issue of utility logs. Section 301(c)(6) of the Committee bill unilaterally modifies one of the contracts by requiring that utility logs be counted against the volume of the contract. Utility logs are logs that are not good enough to produce sawn material, or even good enough to be graded as "pulp logs." They are essentially "junk material," designated as "utility" because 50 percent is "chippable." (They are not logs used as utility poles).

Utility logs in the independent sales and Alaska Pulp Corporation's sale are accounted for the same way with respect to their contract volume, and will therefore constitute a breach of contract or a taking for which the federal government will be liable. Alaska Pulp Corporation's utility volume is historically about 18 percent of the total harvest when considered as net saw log volume plus net utility log volume.

The saw mill in Wrangell, Alaska, is dependent upon the Alaska Pulp Corporation long-term sale for its saw log supply. The saw mill has been reduced from a two-shift operation to a one-shift operation during the last year due to a reduced saw log supply resulting from lawsuits. Counting utility logs against the sale volume will reduce the saw log supply by approximately eleven million board feet annually. This represents an annual three month supply of saw logs for a one-shift operation.

Adjusting the sale volume by adding compensatory utility log volume will allow utility logs to be counted against contract volume without changing the contract or exposing the government to a lawsuit.

On June 2, 1976, the Forest Service determined that utility logs should not be counted and are not part of the contract volume. The bill's modification exposes the government to liability for a taking of a portion of the volume of the Alaska Pulp Corporation contract.

Despite these very serious misgivings, we have deferred to the Alaska delegation. We see absolutely no justification for not deferring to the delegation from Alaska on fundamental land management decisions in their state. They certainly should be afforded the same opportunities as the rest of the delegations considering land use designations within their respective states.

JAMES A. MCCLURE.
CONRAD BURNS.
DON NICKLES.
FRANK H. MURKOWSKI.
MITCH MCCONNELL.
MALCOLM WALLOP.
JAKE GARN.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the Act, H.R. 987, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

AN ACT To amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Forest Management Act of 1976".

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TIMBER SALES ON NATIONAL FOREST SYSTEM LANDS

SEC. 14. (a) * * *

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(i)(1) For sales of timber which include a provision for purchaser credit for construction of permanent roads with an estimated cost in excess of $20,000, the Secretary of Agriculture shall promulgate regulations requiring that the notice of sale afford timber purchasers qualifying as "small business concerns" under the Small Business Act, as amended, and the regulations issued thereunder, an estimate of the cost and the right, when submitting a bid, to elect that the Secretary build the proposed [road: *Provided,* That the provisions of this subsection, shall not apply to sales of timber on National Forest System lands in the State of Alaska.] *road.*

* * * * * * *

AN ACT To provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Alaska National Interest Lands Conservation Act".

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TITLE V—NATIONAL FOREST SYSTEM

ADDITIONS TO EXISTING NATIONAL FORESTS

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LUD II MANAGEMENT AREAS

SEC. 508. The following lands are hereby allocated to Land Use Designation II ('LUD II') as described in the Tongass National Forest Land Management Plan, completed March, 1979, and amended Winter 1985-1986, and shall be managed by the Secretary of Agriculture in perpetuity in accordance with such designation:

(1) YAKUTAT FORELANDS.—Certain lands which comprise approximately 139,144 acres, as generally depicted on a map entitled "Yakutat Forelands LUD II Management Area—Proposed" and dated May, 1989.

(2) BERNERS BAY.—Certain lands which comprise approximately 46,000 acres, as generally depicted on a map entitled "Berners Bay LUD II Management Area—Proposed" and dated May, 1989.

(3) CHUCK RIVER.—Certain lands which comprise approximately 72,503 acres, as generally depicted on a map entitled "Chuck River LUD II Management Area—Proposed" and dated May, 1989.

(4) GOOSE FLATS.—Certain lands which comprise approximately 23, 798 acres, as generally depicted on a map entitled "Goose Flats LUD II Management Area—Proposed" and dated May, 1989.

(5) KADASHAN.—Certain lands which comprise approximately 33,641 acres, as generally depicted on a map entitled "Kadashan LUD II Management Area—Proposed" and dated May, 1989.

(6) KARTA.—Certain lands which comprise approximately 38,046 acres, as generally depicted on a map entitled "Karta LUD II Management Area—Proposed" and dated May, 1989.

(7) LISIANSKI RIVER/UPPER HOONAH SOUND.—Certain lands which comprise approximately 135,426 acres as generally depicted on a map entitled "Lisianski River/Upepr Hoonah Sound LUD II Management Area—Proposed" and dated May, 1989.

(8) MT. CALDER/MT. HOLBROOK.—Certain land which comprise approximately 56,540 acres as generally depicted on a map entitled "Mt. Calder/Mt. Holbrook LUD II Management Area—Proposed" and dated May, 1989.

(9) NUTKWA.—Certain lands which comprise approximately 28,118 acres as generally depicted on a map entitled "Nutkwa LUD II Management Area—Proposed" and dated May, 1989.

(10) OUTSIDE ISLANDS.—Certain lands which comprise approximately 75,017 acres as generally depicted on a map entitled "Outside Islands LUD II Management Area—Proposed" and dated May, 1989.

(11) TRAP BAY.—Certain lands which comprise approximately 6,646 acres as generally depicted on a map entitled "Trap Bay LUD II Management Area—Proposed" and dated May, 1989.

(12) YOUNG LAKE.—Certain lands which comprise approximately 18,173 acres as generally depicted on a map entitled "Young Lake LUD II Management Area—Proposed" and dated May, 1989.

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TITLE VII—NATIONAL WILDERNESS PRESERVATION SYSTEM

DESIGNATION OF WILDERNESS WITHIN NATIONAL PARK SYSTEM

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NATIONAL FOREST TIMBER UTILIZATION PROGRAM

[SEC. 705. (a) The Congress authorizes and directs that the Secretary of the Treasury shall make available to the Secretary of Agriculture the sum of at least $48,000,000 annually or as much as the Secretary of Agriculture finds is necessary to maintain the timber supply from the Tongass National Forest to dependent industry at a rate of four billion five hundred million foot board measure per decade. Such sums will be drawn from receipts from oil, gas, timber, coal, and other natural resources collected by the Secretary of Agriculture and the Secretary of the Interior notwithstanding any other law providing for the distribution of such receipts: *Provided,* That such funds shall not be subject to deferral or rescission under the Budget Impoundment and Control Act of 1974, and such funds shall not be subject to annual appropriation.]

SEC. 705. (a) Subject to appropriations, other applicable law, and the requirements of the National Forest Management Act of 1976 (Public Law 94-588), except as provided in subsection (d) of this section, the Secretary shall seek to provide a supply of timber from the Tongass National Forest which (1) meets the annual market demand for timber from such forest and (2) meets the market demand from such forest for each planning cycle.

* * * * * * *

[(d) The provisions of this section shall apply notwithstanding the provisions of section 6(k) of the National Forest Management Act of 1976 (90 Stat. 2949).]

(d) All provisions of section 6(k) of the National Forest Management Act of 1976 (16 U.S.C. 1604(k)) shall apply to the Tongass National Forest except that the Secretary need not consider economic factors in the identification of lands not suited for timber production.

(e) In order to assure protection of riparian habitat, the Secretary shall maintain a buffer zone of no less than 100 feet in width on each side of all Class I streams in the Tongass National Forest, and on the last 300 feet before the confluence with Class I streams of those Class II streams which flow directly into a Class I stream, within which commercial timber harvesting shall be prohibited, except where independent national forest timber sales have already been sold prior to March 1, 1990, or where volume has been released prior to March 1, 1990, to either the Alaska Pulp Corporation or the Ketchikan Pulp Company pursuant to the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 respectively. If such an independent timber sale or released volume is within the buffer zone, the Secretary shall make every effort to relocate such independent sale or released volume to an area outside of the buffer zone. The Secretary shall use best management practices, as defined in the Region 10 Soil and Water Conservation Handbook (FSH 2509.22), January 1990, to assure the protection of riparian habitat

on streams or portions of streams not protected by such buffer zones. For the purposes of this subsection, the terms "Class I streams" and "Class II streams" mean the same as they do in the Region 10 Aquatic Habitat Management Handbook (FSH 2609.24), June 1986.

(f) Subject to appropriations, the provisions of this Act and other applicable law (including but not limited to the requirements of the National Forest Management Act of 1976 (Public Law 94-588)) and in order to assure the continuation of the Small Business Administration timber sale program, the Secretary shall seek to provide a supply of timber from the Tongass National Forest which meets the demand of those purchasers qualifying as "small business concerns" under the Small Business Act as amended (15 U.S.C. 631 et seq.)

REPORTS

SEC. 706. (a) The Secretary is directed to monitor timber supply and demand in southeastern Alaska and report annually thereon to the Committe on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives. [If, at any time after the date of enactment of this Act, the Secretary finds that the available land base in the Tongass National Forest is inadequate to maintain the timber supply from the Tongass National Forest to dependent industry at the rate of four billion five hundred million foot board measure per decade, he shall include such information in his report.]

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AN ACT To provide for a land exchange in the State of Alaska.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Haida Land Exchange Act of 1986".

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SEC. 12. SULZER PORTAGE LANDS SELECTION.

(a) WITHDRAWAL.—The following lands are withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act (Public Law 85-508) as amended:

Copper River Meridian

Section:	Township 76S, Range 85E
16	S½S½, NW¼SW¼
17	W½, SE¼, S½NE¼
18	All, Fractional
19	N½NE¼, SE¼NE¼, NE¼NW¼
20	N½, N½SE¼, SE¼SE¼
21	All
22	S½, S½N½, Fractional
23	S½, Fractional
24	S½, Fractional

Copper River Meridian—Continued

25	All, excluding islets
26	N½, N½SE¼, Fractional
27	E½, E½W½, NW¼NW¼, SW¼SW¼
28	NE¼NE¼, SE¼SE¼
31	SW¼, W½SE¼.
	Township 76S, Range 86E
30	SW¼, including all fractional lands on west shore of Big Creek Bay.
	Township 76S, Range 86E
31	E½W½, SW¼SE¼, NW¼SE¼.
	Township 77S, Range 86E
2	N½, SE¼, N½SW¼.

(b) SELECTION.—(1) For a period of one year after the date of enactment of this section, Haida Corporation shall be entitled to select lands from among those lands withdrawn pursuant to subsection (a). Haida Corporation shall notify the Secretary of the Interior which lands so withdrawn Haida Corporation wishes to select and shall designate which Haida Exchange Lands and/or outstanding selection rights under section 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1615) Haida Corporation intends to exchange or relinquish in return for its selections hereunder.

(2) The exchange of lands selected by Haida Corporation pursuant to this subsection for Haida Exchange Lands or selection rights under section 16 of the Alaska Native Claims Settlement Act shall be on an acre-for-acre basis. The conveyance of lands to Haida Corporation and Sealaska pursuant to this subsection shall be deemed a conveyance of lands pursuant to the Alaska Native Claims Settlement Act.

(3) After their selection, the surface estate in lands selected by Haida Corporation pursuant to this subsection shall be conveyed to Haida Corporation and the subsurface estate in such lands shall be conveyed to Sealaska Corporation in partial fulfillment of such corporations' entitlement under the Alaska Native Claims Settlement Act and pursuant to the provisions of that Act, provided that the United States shall reserve an easement 100 feet in total width for the use of the State of Alaska for a transportation corridor on the Sulzer Portage trail between Cholmondley Sound and Hetta Inlet, provided however, that timber occurring within the easement boundaries shall remain the property of Haida Corporation.

(c) DURATION.—The withdrawal made pursuant to subsection (a) shall terminate 90 days after the United States has conveyed the surface and subsurface estates of all lands selected by Haida Corporation pursuant to subsection (b) to Haida Corporation and Sealaska Corporation respectively, or one year after the date of enactment of this section, whichever is later.

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